

PARISH Scarcliffe Parish

APPLICATION Change the use of a (C3a) dwelling to a children's home (C2) for a maximum of three children

LOCATION 2 Castle View Palterton Chesterfield S44 6UQ

APPLICANT David Fungai Dozwa Courtwood House, Silver Street Head Sheffield S1 2DD United Kingdom

APPLICATION NO. 23/00599/FUL **FILE NO.** PP-12625702

CASE OFFICER Mrs Karen Wake (Mon-Thur)

DATE RECEIVED 23rd November 2023

SUMMARY

The application has been referred to Planning Committee due to the number of objections received. The council's delegation scheme requires applications with more than 20 objections to be referred to Committee for determination.

Site Location Plan



SITE & SURROUNDINGS

Two storey detached dwelling constructed in brick with a tiled roof occupying a prominent corner position. The dwelling is L-shaped such that there is no boundary treatment on the northern elevation. There is a low stone wall and mature hedge along the east side boundary to the rear garden. The side wall of the dwelling to the south of the site forms the southern side boundary and the dwelling on site forms the west and northern boundaries to the rear garden. A driveway runs under an arch to provide parking for two cars to the rear of the dwelling. The building which would originally have been a garage has been converted to additional living accommodation.

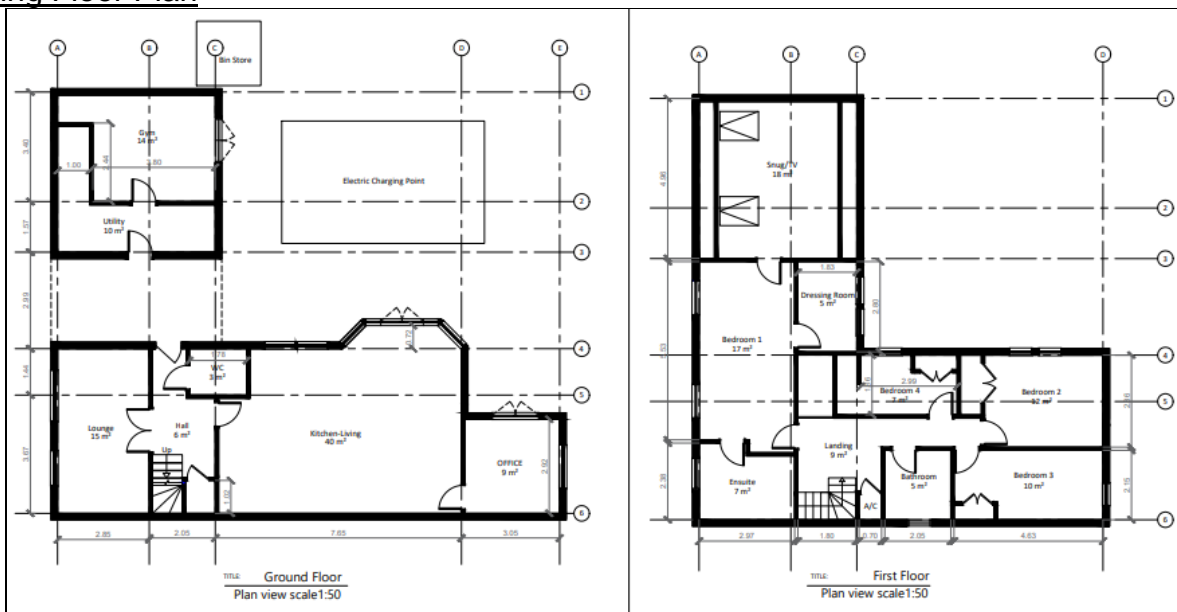
PROPOSAL

The application is for the change of use from a dwelling (Use class C3) to a care home for

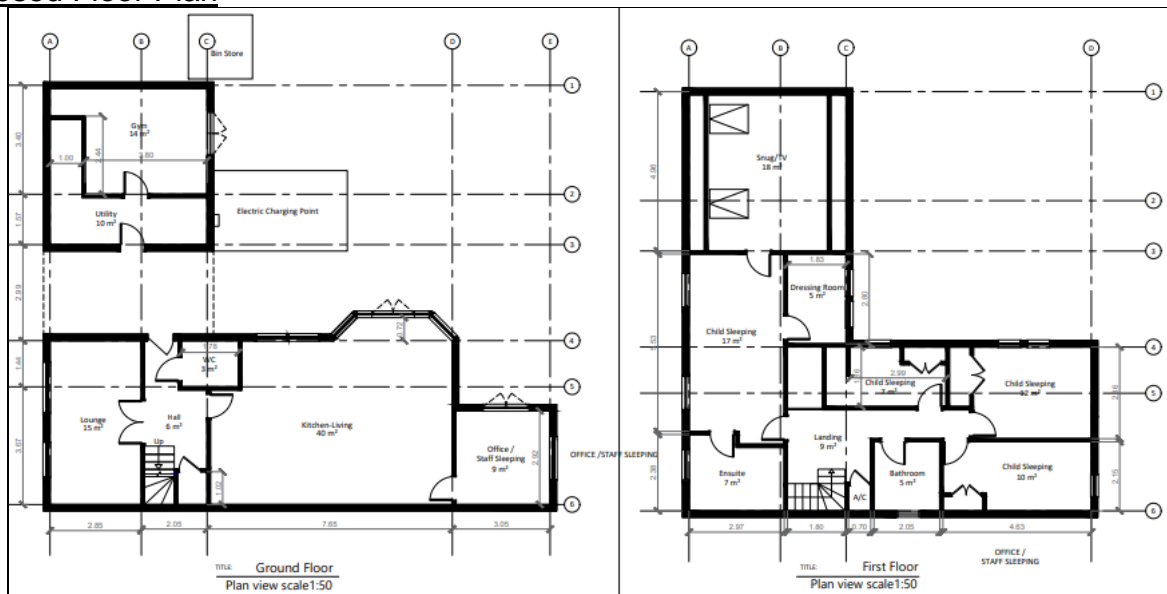
children (Use Class C2.) It is intended to be a specialist care home for up to three children aged from 7 -18 years with emotional and/or behavioural difficulties. The children are proposed to be looked after by a maximum of three carers at any one time, two of whom would sleep overnight, working on a rota basis. Six carers in total would operate on a shift pattern of 48 hours on, 60 hours off. A manager, also a carer, would usually visit the site each weekday between 9am and 5pm. Other than changeover times, it is proposed there will no more than three staff on the premises at any one time. There would be one changeover of the overnight care staff per day, usually 9.30am each morning, which would last for around ten minutes. It is proposed to provide an electric car on site to take children to appointments etc.

No physical external alterations are proposed to the property. The existing and proposed floor plans are set out below.

Existing Floor Plan



Proposed Floor Plan



AMENDMENTS

The application has been amended to provide care for a maximum of three children rather than four as it was originally submitted, the internal layout proposed has been amended and a plan showing two parking spaces provided on site has also been submitted. Additional information has also been provided in response to questions raised during the course of the planning application.

EIA SCREENING OPINION

The proposals that are the subject of this application are not EIA development.

HISTORY

| | | |
|----------------|--------------------------|---|
| 00/00298/FUL | Granted Conditionally | 8 new 2 storey dwellings, 3 barn conversions, conversion of farmhouse to 2 dwellings |
| 03/00628/RETRO | Refused | Retention of vehicular access to Back Lane |
| 98/00258/FUL | Granted Conditionally | Conversion of farmhouse, stables and barn to provide 6 dwellings and erection of 11 dwellings |
| 98/00259/CON | Permitted | Demolition of former nissen sheds, dutch barns, byre, covered yard and incidental lean-to buildings |
| 04/00161/FUL | Granted Conditionally | First floor extension to side and conservatory to rear |
| 08/00203/FUL | Granted Conditionally | Alterations to conservatory windows including bricking up and to conservatory roof |
| 15/00513/FUL | Granted Conditionally | Raise garage roof to create room |

CONSULTATIONS

Conservation Manager:

No comments. From a heritage viewpoint, there are no external alterations proposed to the building and as a result, the impact on the character and appearance of the conservation area will be neutral.

DCC Highways:

No objections. Suggests a condition requiring retention of three parking spaces on site.

Environmental Health Officer:

As an Environmental Health Officer I have experience of trying to resolve noise complaints arising from these businesses and confirm that, whilst there may be similarities, they are not the same as a typical home environment. These are private facilities that care for children who often have a wide range of challenging behaviour and complex needs. This can result in significantly higher levels of noise and aggressive behaviour.

The fact that staff at the care homes are well trained to look after children is not in doubt, however the primary focus of the service and the management systems that are in place are (a). To make money and, (b) To ensure the welfare needs of the children are met. The noise

impacts of the business upon the wider community are not considered a priority for care providers or the placing authorities, and these impacts can be significant and very difficult to control retrospectively. Problems can arise for a variety of reasons, for example where the assessment of the care needs results in unsuitable placements, or changes in the circumstances of those being cared for which are not readily accounted for.

Environmental Health departments have to try and resolve these issues. The impacts can be significant, and can as a worse case include nightly antisocial behaviour and noise nuisance, on the property or outside, which care home staff are not able to prevent (Staff cannot prevent those being cared for leaving the property, at any time of day or night)

I have experience of several cases where regular calls are made to the Police by concerned members of the public, however they are often unable to address the issues sufficiently.

Environmental Health can investigate and serve noise abatement notices under statutory powers available to them, however in practice, this is a protracted process that requires the engagement of various agencies. The outcomes are usually far from satisfactory.

As a result, there are significant concerns that the introduction of a private care home into a quiet semi-rural location will introduce excessive noise, that will be incongruent with the local area, arising from regular visits from residential care home staff, and other associated support workers. Some of this will be during antisocial hours, which will be largely dictated to by the needs of those being cared for and from regular episodes of shouting, screaming and other antisocial behaviour

The applicant has provided some information in regards how noise will be controlled, however the level of detail is quite limited, and they have not satisfied me that sufficiently robust controls are in place.

I am aware of the ministerial statement issued last year by the Minister of State Department for Levelling up, Housing and Communities that confirmed '*that the planning system should not be a barrier to providing homes to the most vulnerable children in society*'. The statement does not however state that the imposition of appropriate conditions is unreasonable. It is therefore recommended that to address the above concerns, consideration should be given to the granting of a 2 year temporary permission, so that the impacts of the proposals upon the community can be fully evaluated. It is also recommended that a condition is included on any permission requiring that before the development is brought into first use, a noise management plan must be submitted to the LPA and approved in writing. The management plan must be implemented in full thereafter.

Force Designing Out Crime Officer:

There are no reasons from a safeguarding perspective, which would make the site unsuitable for the proposed use.

Scarcliffe Parish Council:

Objects for the following reasons:

1. Insufficient parking and staff and visitors will need to come by car as the bus service is so infrequent.
2. The entry to Castle View is tight where on-street parking will restrict access.
3. The property is on a bend which is already tight for large vehicles and any on-street parking will make this worse.
4. The site is opposite the village hall which already uses Back Lane as overspill parking.
5. Noise levels are likely to be higher than would be expected from a normal family home. What procedures are in place to ensure noise is controlled.
6. There are safeguarding issues resulting from the proposed layout, the shared

office/staff sleeping area, one of the bedrooms is only 7sqm, made even smaller by the wardrobe, the children's snug/tv room is accessed via a bedroom meaning the bedroom has no privacy, there is a long way between the office/staff sleeping areas and the exits which means children could abscond without staff hearing or having time to stop them.

Supported Accommodation Review Team:

Outside the remit of supported accommodation as the residents are under 18.

Derbyshire County Council Children's Services:

Confirm that as a county, there are fewer children's homes in the area than in other authorities and some children have to be placed at a distance and therefore any new provision from private organisations could be useful to increase supply in a more local area. When assessing location every residential home, when it is registered with Ofsted, would have to issue a 'statement of purpose' which outlines their key type of home and cohort of children they would want to place there. Sometimes, it is great to be well connected, and sometimes, it is better to have limited access, to allow focussed work with the children without distraction. This should all become apparent with Ofsted and they would assess the suitability of the property against their desired statement of purpose.

Consultation responses are available to view in full on the Council's website.

PUBLICITY

Site notice, Press notice and neighbours notified.

Objections received from 42 households as well as two councillors and Palterton Residents Association. A petition has also been received which has been signed by 67 residents. Mark Fletcher MP has confirmed he has received a number of objections from residents and has asked that the legitimate concerns of the community be considered during the application process.

The objections raise the following issues:

1. The proposal breaches a restrictive covenant on the property which prevents it from being used for business purposes or from causing noise or nuisance or parking problems.
2. There is a mortgage on the property which prevents it being used for business purposes.
3. The isolated village location makes it difficult to safeguard children as they could easily disappear into the countryside or onto until roads and areas of the village.
4. Children would have nothing to do as there are little or no facilities in the village.
5. The potential risk children in the proposed home pose to younger children in the village means resident's children would not be allowed to walk to see their friends and family which would have a negative impact on the children's well being and ability to exercise.
6. The location of the home would prevent children using the village park and football pitches with equipment designed for young children, restricting their ability to exercise and mature independently. This area is an extended hub of the village school used for children to socialise with each other and this would inevitably stop.
7. The village streets are poorly lit and the potential risk posed by older teenagers living in

the home would prevent people walking in the village at night making them prisoners in their own homes in their own village which is not fair.

8. The footpath out of the village towards Bolsover which starts right next to the site is frequently used by children to walk back from school or to visit friends, dog walkers and people generally taking exercise. The risk of the residents from the home would stop this which is unfair.
9. There is a potential and high risk to the children's wellbeing of the home if they were to enter the field next to the site when being grazed by cattle with young calves or bulls if they did not understand the countryside code of conduct and how to conduct themselves if approached by livestock.
10. There is a potential risk to the welfare of the animals that graze the field next to the site.
11. Potential negatives to the village primary school and safety to the children
12. The amount of vehicles from staff, changing of staff and visitors would exceed the normal amount of vehicles from a family home, causing danger to pedestrians in a small cul-de-sac. Staff would not be able to use public transport as there is only one bus every 2 hours, they would have to use their own transport.
13. Noise potentially 24 hours a day with neighbours meters away would be over and above an acceptable level in a residential area.
14. The site is within a conservation area and the proposal would not preserve or enhance the character of the conservation area.
15. The application should have been more widely publicised.
16. There is little detail in the application about the proposal or the care provider who appears to have no experience in children's services and has financial difficulties. The council should provide the residents of Palterton with proof that the applicant is suitable, experienced and has the funds for running a home for children with behavioural issues. The government states an individual may only carry on a children's home if the individual is financially fit to carry on the home.
17. There could be more staff required than the applicant is stating. The ratio of staff to children depends on the needs of the children and it could be much higher than stated and if it is it will exacerbate parking problems in the area and cause problems adjacent to an existing junction which is restricted in width where buses and large vehicles including emergency vehicles, already have problems and where there is already issues of overspill parking from the village hall.
18. The severity of the problems of the children to be cared for is not known so the safety of other residents, some with young children cannot be assessed.
19. The rear garden is proposed for parking so there will be nowhere for children living on site to play.
20. With the exception of the playing field which has limited play equipment designed for small children only, the village currently has no amenities for children or teenagers. Therefore, any recreational activities will need to be found outside the village necessitating transporting the children by car as many parents of children currently living in the village need to do. Although there are bus services these are also very limited and unlikely to prove a viable option for such journeys.
21. The village is accessed by three busy roads which are largely unlit with no pavements. Alternatively, the route to Hillstown is across three agricultural fields which leads on to a busy main road. If a child were to leave the premises unsupervised, they could come to serious harm. This would be extremely dangerous, even in daylight hours and the chances of being seriously injured are high. This is further exacerbated as these

- children are unlikely to have a level of cognitive ability to keep themselves safe.
22. Concern is expressed about the fear or intimidation that could be felt by anyone passing the property if any disturbance were taking place. The nature of the difficulties of the children who may become resident has not been disclosed but the general term 'emotional and behavioural issues' suggests that noisy outbursts could occur should a child be experiencing a difficult time. The application is to provide a long-term home to children with behavioural and emotional needs. This is a broad definition but issues that may arise include anti-social behaviour (ASB), noise disturbance and nuisance. Additionally, behavioural issues may include criminality which collectively would have a negative impact on the community.
 23. Concern is expressed for residents of Palterton who would feel vulnerable should this application be granted. The premises are next to a public footpath which leads to Hillstown. People walk their dogs past the house to access the footpath, many of whom are lone females who would feel intimidated if they were to face teenagers who were displaying anti-social behaviour. The premises are opposite a park where young children play. Again, they would be intimidated should any instances occur whereby they were put at risk of harm. Can the applicant be more specific as to the behaviours of the residents he intends to place there. Also, given there are only three carers to four residents how do they intend to control the noise or ASB?
 24. The layout of the building is unsuitable with the office/staff quarters well away from exit points children could easily leave unnoticed and the childrens tv room/snug is accessed through one of the bedrooms giving the child sleeping in that room no privacy, one of the bedrooms is very small, there is insufficient communal space either inside or outside, rooflights allow access onto the roof and front windows are a means of escape etc.
 25. The application itself is inaccurate. The tick box for whether there is conservation importance is ticked as no; under proposed employees it states 2 full time people, 0 part time but 3 full time equivalents, which is it? The applicant states that there is a shop close by. The nearest corner shop is a mile away and, if walking, is only accessible by foot over three fields. The applicant states work has not started on the premises, but office furniture has been moved in and CCTV has been installed. This is quite worrying as it feels that this application is a foregone conclusion.
 26. Palterton is a small village. In terms of community amenities, it has a village hall, a primary school, a church and a small children's playground. It does not have any key amenities within walking distance. This is not the right location for this application, there is nothing for these children to do.
 27. There are inadequacies and inaccuracies in the Design & Access Statement, which appears to have been cut and pasted from other statements submitted to other Authorities and is not specific to this site. For example:
 - 'in the right places' good schools and community support: - its apparent this community does not and will not support this use.
 - "planning authorities supporting applications that reflect local needs" residents agree there is no 'need' for such a development in Palterton & other towns locally are easily more suited
 - 'fear of crime and anti-social behaviour' - is a planning consideration and given Palterton has, absolutely NO anti-social behaviour, given the background of the proposed residents, the current residential harmony will inevitably be affected.
 - 'viability and market considerations' - Palterton housing 'stock' is too expensive

for such consideration, surely there is better economic housing in & around the local area? (ie Bolsover/Shirebrook which in turn have better facilities within the town?)

- “close to services/facilities” Palterton doesn’t offer any facilities for the proposed age range
- “significant contribution to the wellbeing of the community” - how does this development provide any contribution to the Palterton community
- “not materially different from a typical residential household” - A typical residential household would be 2 adults with 2/3 children with separate age ranges not 2/3 adult carers and 4 children of similar age range. Additionally, as a residential property, the house isn’t fit for purpose as a care home.
- ‘there would be one changeover of the overnight care staff per day, usually 9.30am each morning, which would last for around 10 minutes’. From a safeguarding perspective this is completely unachievable. Staff will be not be able to effectively and safely feedback the events and actions of up to four children with complex needs in 10 minutes. During this time they will potentially have to put in place new risk assessments to meet the needs of the residents. If these meetings do go on for longer, this will result in further vehicles being parked up on the cul-de-sac for prolonged periods of time posing a safety risk to pedestrians and other road users.
- “Under the requirements of OFSTED, such care homes must be run as closely as possible to a typical family household” This is false. The term family household is not found in OFSTED policy, regulatory, or guideline documents. This shows a lack of understanding for what is involved and the type of care they are providing.
- “there is room for off-street parking for 3 cars.” this is false .
- “Parental Support” to the children. OFSTED policy and guidelines exhaustively explain what the roles of the carers are and nowhere does it mention that they provide parental support.
- “The table in the DAS used to show the comings and goings is the same table used in a previous DAS with respect to 2 and 3 children residences. It has not been adjusted to reflect the number of trips that will be required for a 4 child residence.
- The DAS references 3 appeals to dismiss any concerns regarding noise, traffic, crime, and anti-social behavior, however these references were from appeals related to Lawful Development Certificates all involving the same Agent and did not involve a material development. They are therefore inappropriate.
- The agent makes reference to LC3 in the BDC Development Plan to justify the need for the children’s home, however the reference was inappropriate as LC3 makes no mention of children’s homes.
- The DAS uses words like hopefully, usually, expects to, and aims to, which are vague and non-committal, and prevent the council from being able to measure if the applicant is abiding by what they have proposed.
- The DAS states the purpose of the home is for children with emotional and/or behavioral difficulties in 1 paragraph then states that the company’s (GCOM) model is to provide accommodation to children with a range of learning difficulties, other needs, and challenges. Given these two different descriptions, the council cannot know what the actual use will be.

- The DAS states that the comings and goings would not be materially different from a typical residence. This is false. If they were nor materially different from a typical residence then the proposal would not be classified as a material development and would not need planning permission. Four children close to the same age with emotional and behavioral problems and numerous carers cannot be compared to a typical residence, especially a residence that is typical to Palterton.
28. The DAS is missing any detail in explaining how Amenity issues such as noise, traffic, crime, and anti-social behavior will be mitigated to demonstrate that the applicant has a firm command of these issues. Instead the Agent mistakenly uses the comparison to a “normal family home” to dismiss any concerns. These are legitimate arguments when applying for Lawful Development Certificate to house only 2 or 3 children, but the Agent failed to remove these to change the context of this DAS to reflect that as a “Material Development” where they are not sufficient.
 29. The access to the parking area is through a tight archway which is difficult to access and there is limited room on site for three cars and no turning area unless all of the amenity space is removed. It is likely that vehicles will not use this difficult on-site parking and will park on the road instead.
 30. Vehicles parking on the pavement near the site will result in pedestrians having to walk in the road which is dangerous.
 31. The proposal includes little or no plans in place for the education of vulnerable children and young people who would live on site and falls short on explaining how these children will be fed/cared for etc in this environment.
 32. The proposal will result in significant harm to the amenity of adjacent residents as a result of noise, disturbance, fear of crime etc.
 33. The lack of facilities in the village means this is not a sustainable location for such a use.
 34. Palterton is a village primarily populated by a more mature population. Young people living in more isolated areas without easy access to age-appropriate social activities can become bored and un-challenged. This can lead to reckless and anti-social behaviour.
 35. Palterton is a close knit community with no anti-social behaviour. If this use is interested residents may move out of the village, destroying that community.
 36. Studies show young people "felt that they lived in 'nowhere land' and the lack of opportunities to meet with other people like them led to a decline in their mental health due to social isolation". Palterton, has nothing to offer young people by way of recreation and to that end, is NOT a suitable location for a children's home.
 37. Bolsover is the nearest town and this also has little to offer by way of social pursuits for young people and is indeed becoming more troubled with fighting and aggressive behaviour and is therefore not an area to be introducing young people to who have complex emotional needs. This proposed children's home should be sited in an area with easier and safer access to appropriate social diversions and also in an area where there is a wider support network of professional healthcare support.
 38. The potential residents of this proposed children's home are ripe to be exploited for 'county lines' drug running. This has been a repeated problem for Palterton over the years. The property in question directly overlooks the playing field where witnesses regularly see cars parked on the playing field and car park in the early hours of the morning. This makes these young people dangerously situated to exposure to exploitation.

39. Young people living in rural areas appear to have been disproportionately affected by unemployment following the recent financial crisis. There is no joined up thinking about the future of the residents of this proposed children's home. Such young people face a number of uniquely rural barriers, particularly concerning access to transport, careers advice and employment.
40. The application breaks Article 8 of the Human Rights Act 1998: the right to respect for your family and private life and your home. The homes of those in the area closest to the named property will be seriously affected by noise nuisance such as shouting, screaming and fist pounding when heightened emotional outbursts arise. The village of Palterton is one of a rural nature and occupants of the village have a right to go about their lives in peace, free from fear and anxiety.
41. Staff in such homes are not allowed to restrain children so if there is anti-social behaviour or disruption the police will need to be called every time which is distressing for local residents.
42. The location will not help or provide for the children it is proposed to home. There are no services and facilities in Palterton. There are no youth groups for them to engage in and the local park is only suitable for younger children. The bus service is very limited which would restrict the amount of freedom and independence given to these children/young adults. This could result in severe feelings of isolation which can have a very negative impact on mental health, wellbeing and self-esteem. These are three very important factors which should be top priority for the applicant in regard to the children/young adults entrusted into their care.
43. There are no Local Strategies or policies within the Development Plan justifying this type of development. The BDC development plan does not identify any development objectives with regard to the need for children's residential homes as is proposed in the application. NPPF 3.16(d) states that "Plans should... contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals." Without any plans for children's homes the Council has nothing to reference in making an informed decision, or anything to measure success in meeting objectives against. Given the absence of any such direction in the BCD development plan NPPF 2.11(d) states that "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
44. The village is often cut off by snowfall and it will not be possible to provide care at the home when this happens.
45. The location does not fit the description in the ministerial statement by Rachael Maclean (Minister of State Department for Levelling up, Housing and Communities) in March 2023 which stated "it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love".
46. The property overlooks adjacent dwellings and will result in a loss of privacy for adjacent dwellings and gardens.
47. The extension at the property has not been built in accordance with the approved plans

and results in people hanging out of the rooflights, overlooking adjacent dwellings/gardens.

48. Concern is expressed for the safety of ladies attending the exercise classes in the village hall if the residents of the home display anti-social behaviour.
49. The bathroom windows of the adjacent dwelling will look into the bedrooms of the children when they are open which is inappropriate.
50. Changing the application from four children to three children does not overcome any of the objections raised.

Letters of support have been received from five households which make the following points:

1. Palterton is a safe, welcoming village which prides itself on family at the heart of it. The welcoming of the children's home for those who have not had these early life experiences is commendable and provides an opportunity to show vulnerable children how great community life is.
2. Although there is not a great deal for children to do in the village, the outdoor space will allow these children opportunities to thrive, focussing on their independence and allowing them a safe space they can adjust to. Minimising city life and distractions allows these children to start a new life for themselves and to show them how amazing the world can be.
3. There should be no assumptions about the children who will be living there and they should be welcomed into the community.
4. There is no proof that the proposal will not de-value the surrounding properties, there are no plans to alter the property at all and having them living there is no different than having a large family living there.
5. This proposed children's home in Palterton could potentially alter the course of the young people's lives who access the services. There is no reason why this home should not be given the go ahead.
6. The village has a village hall which is often used and often has a full carpark. Additionally, footballers make ample use of the pitch adjacent to the village hall. Often they park on the road as the car park is too full. Nobody complains about this matter. Likewise, the primary school makes use of the village hall, the car park and the football pitch. Again, this is not a problem. Why then should this small positive children's home?
7. Palterton will soon have a small village pub. People are not campaigning against this.
8. It is society's civic duty to care for the less well-off and disadvantaged. This proposal could make all the difference to the trajectory of a young person's life.

POLICY

Local Plan for Bolsover District ("the adopted Local Plan")

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 – Sustainable Development
- SS3 – Spatial Strategy and Distribution of Development
- LC3 – Type and Mix of Housing

- SC1 – Development within the Development Envelope
- SC3 – High Quality Development
- SC11 – Environmental Quality (Amenity)
- SC16 – Development Within and Impacting Upon Conservation Areas
- ITCR11 – Parking Provision

National Planning Policy Framework (“the Framework”)

The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraph 191: Ground conditions and pollution.
- Paragraphs 200 - 214: Conserving and enhancing the historic environment.

Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design, Adopted 2013:

The purpose of the Successful Places guide is to promote and achieve high quality residential development within the district by providing practical advice to all those involved in the design, planning and development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

ASSESSMENT

Key issues

It is considered that the key issues in the determination of this application are:

- The principle of the development
- The impact on the character and appearance of the conservation area
- The impact on residential amenity
- Whether the development would be provided with adequate parking and a safe and suitable access

These issues are addressed in turn in the following sections of this report.

Principle

The site is within the development envelope within a predominantly residential area. To ensure the Local Plan for Bolsover District contributes to achieving sustainable development, the council has produced a Settlement Hierarchy Study which assessed the sustainability of existing settlements and ranked them accordingly. This study finds the largest settlements within the district tend to be the most sustainable. The council’s spatial strategy has a strong focus on sustainable development and on this basis, growth will be directed to the district’s more sustainable settlements such as Bolsover and Shirebrook.

Within this hierarchy, Palterton is identified as a small rural village. These small settlements in the countryside are considered to be unsustainable settlements where Policy SS3 of the Local Plan will only support limited development, infill development and conversion of agricultural buildings where appropriate.

The current proposal is considered to be small scale development which involves the change of use of an existing dwelling to the use as a children's home within the development envelope of the village and as such the proposal is considered to meet the requirements of Policy SS3 of the Local plan for Bolsover District.

Recent Government advice emphasises the provision set out in paragraph 62 of the NPPF, which notes that local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Paragraph 62 says the different groups include but are not limited to "those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes". In her statement the Housing and Planning Minister said councils should consider whether it is appropriate to include accommodation for children in need of social services as part of the NPPF assessment. She went on to say that "Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country.

In addition, Policy LC3 of the Local Plan for Bolsover District states that the council will support the provision of housing for older people and specialist housing provision across all tenures including extra care schemes in appropriate locations, close to services and facilities. DCC Childrens Service have confirmed there is a lack of children's homes in the county and that the provision of homes by private providers would help to address this shortfall. DCC have also confirmed that in some instances a quieter location is more suitable for some children, and it would be for Ofsted to consider this issue when assessing where to appropriately locate a child.

It is acknowledged that Palterton is small rural village with very limited facilities. It has no shop, no secondary school, and no activities for older children/teenagers. It is also acknowledged that the village also has a very limited bus service. This means that the proposed use will require residents to be taken to and from school, activities, appointments etc by car. However, Bolsover, which is the nearest small town, is only 2miles away and the secondary school is only 1.7miles away. Whilst the need to travel by car to nearby towns for facilities is not ideal, this is already the case for existing Palterton residents and would be the case for residents of the site if the property remained a single dwelling. On this basis, given the identified need for children's homes in all areas in the county, the proposed use is not considered to represent development which would be so unsustainable as to justify refusal of the proposal on this ground.

The impact on the character and appearance of the conservation area

The development utilises an existing dwelling within the development envelope and the conservation area. The development does not propose any external alterations to the building

and there are no objections to the proposal from the Conservation Manager. The development is therefore not considered to be harmful to the character and appearance of the conservation area and is considered to meet the requirements of Policy SC16 of the Local Plan for Bolsover District.

Residential Amenity

Impact on residential amenity for existing residents

The property is a detached, two storey dwelling with a rear garden/parking area positioned at the entrance to a small cul-de-sac. The rear garden/ parking area is enclosed by the dwelling on site on one side and by a neighbouring dwelling to the rear. There is also a further dwelling immediately to the west of the site. This means that although the property is detached, it is very close to neighbouring properties.

The proposal does not include any external alterations to the building and as such no new windows are being introduced. The proposed use is therefore not considered to result in any additional overlooking of adjacent dwellings over and above the existing use of the property as a dwelling and as such the proposal is not considered to result in a loss of privacy for adjacent residents.

The proposed use of the site is to home children. These children could need homing for many reasons and may suffer from learning difficulties, emotional difficulties and/or behavioural issues and these issues cannot be specified at this stage as the children would be allocated to the home by Ofsted based on the provision available and the suitability for the child. If planning permission was to be granted for the change of use of the property, the children living there now or in the future could not be controlled by planning condition. As such the use of the property as a children's home needs to be considered in general terms, rather than trying to focus on the specific problems suffered by the potential future occupiers as this would be controlled by Ofsted.

As a worst case scenario, the home could be occupied by three children, all of whom could have extremely challenging behavioural issues, if Ofsted deemed that this was an appropriate placement of these children. If this was the case, there is potential for noise and disturbance from the property on a regular basis and potential for aggressive or anti-social behaviour. This would potentially be detrimental to the amenity of local residents and the Environmental Health Officer has expressed concern about this based on his experience from dealing with these situations.

However, if the residents of the home cause noise and disturbance for adjacent residents this could be investigated and controlled by an abatement notice. The Environmental Health Officer advises this is a protracted process, but they do have the statutory powers to control this issue. In addition, if residents are showing aggressive or anti-social behaviour, this is a matter to be controlled by the police, not by planning legislation.

That said, Policy SC11 of the Local Plan for Bolsover District states that development likely to cause a loss of residential amenity as a result of, amongst other things, noise, must be supported by a relevant assessment. In addition, paragraph 191 of the NPPF states that planning decisions should mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

In this case a noise assessment has not been submitted with the application. However, the existing property can continue to be used as a four-bedroom dwelling without the need for planning permission. There is nothing to say that the occupiers of the dwelling would not have children with challenging behaviours or wouldn't foster children with challenging behaviours and this would not require any planning permission at all. On this basis, it could be argued that the use of the property as a children's home may not be materially different from its occupation as a dwelling in this respect and as such this is not considered to be a reason to justify refusal of the proposal. However, the probability of this happening is unlikely, and it is the Environmental Health Officer's advice that whilst the two uses are similar, they are not the same and it is therefore considered reasonable and necessary to condition the submission and implementation of a noise management plan which addressed how the potential for noise issues arising from the site are to be managed should the application be approved.

As set out above, the use of the property as a children's home could increase the potential for anti-social/aggressive behaviour in the area. Policy SC3 of the Local Plan for Bolsover District requires development to take account of the need to reduce the opportunities for crime and the fear of crime, disorder and anti-social behaviour, and promote safe living environments. In addition, paragraph 96 of the NPPF states planning decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which, amongst other things, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Whilst this policy is aimed primarily at larger, new built development, it is clear that these issues are considered to be material planning issues which need to be taken into account.

The details of the children who are potentially occupying the property are not known, nor is their reason for being in care and as such the challenges presented by these children is unknown because this is a matter for Ofsted who allocate children to suitable homes. Even if the details of the children were known, the children occupying the property could change at any time without any need for planning permission. There is therefore no evidence that the use of this property will result in an increase in crime or anti-social behaviour and whilst there is potential for this to happen in some cases there are also many cases where small scale children's homes operate successfully in residential areas with children settling into community life. In addition there is always the possibility for the property to be occupied by residents who may bring crime and/or anti-social behaviour to the area and again this cannot be controlled by planning legislation. For this reason, the proposal is not considered to represent a use which would result in an unsafe living environment for existing residents.

The Environmental Health Officer has suggested a temporary consent be issued to allow the full extent of the impact of the proposed use to be assessed. However, as set out above, given that the residents of the home can change should Ofsted deem fit and this cannot be controlled by planning condition, a temporary consent would not address the concern raised. The success of the home's residents to integrate into the community will, to a large extent, depend on the children living there at the time and the management of the home itself and both of these matters are controlled by Ofsted. In addition, the home is intended to provide a stable home for children to stay for the time they are in care. A temporary consent would therefore potentially jeopardise the ability of the home to do this.

The issue of the impact of the home in terms of noise and disturbance for residents is not

restricted to noise and disturbance from residents of the home. It could also be as result from the comings and goings associated with the use of the property as a children's home in terms of staff, visitors etc.

A design and access statement has been submitted with the application which details how the home will operate in terms of staff, visitors etc. Further information on these matters has also been requested and provided by the applicant, as has a locality assessment which is to be submitted to Ofsted. There are a number of discrepancies in these documents about the details of the staffing arrangements, how staff will access the site, how the children would be taken to activities, visitor numbers to the property etc. This makes the assessment of the impact of these comings and goings very difficult. However, these discrepancies are likely to be as a result of the fact that exact figures cannot be produced because this will partly be dependent on the needs and requirements of the residents and their families at the time of occupation and the staff who are employed at any one and each of these things can vary.

For example, some children would have more family visitors than others, children will have different needs in terms of care and assessment, for example the need for medical attention or psychologist/health and well-being support. Most carers and managers are likely to travel to work by car but on occasion may travel by taxi. Children may be taken to appointments in the electric car provided by the home or in the carers' cars or by taxi. The precise details of the number and timings of these movements therefore cannot be quantified or qualified and are likely to vary on a regular basis. The impact of any noise and disturbance from such comings and goings would also therefore vary.

It is considered likely that the comings and goings from the property as a result of it's use as a care home could be greater than if the property was a single dwelling. However, if the dwelling was occupied by a family with grown up children/dependant relatives/foster children/occupiers working shift patterns etc this would require no planning permission at all. Such a family would also result in numerous comings and goings and would also have visits from friends/relatives/carers/support workers etc. Such the comings and goings would also be difficult to quantify. On this basis it is considered that the proposed use would not result in such an increase in comings and goings from the site over and above what could be reasonable expected in a residential area that it would result in noise and disturbance to residents of adjacent dwelling of a level that would cause harm to their residential amenity.

Residential amenity for future residents

The home is proposed to accommodate up to three children aged 7-18 years old. There is a primary school in Palterton but no secondary school and no facilities or organised activities for older children in the village. The dwelling on site has an enclosed private open space but this is restricted in size by the use of part of the area as a parking area. Concern has been expressed by residents that such an environment is not suitable for older children and could be damaging to their mental health and well-being. However, many residents have raised and are raising families in this environment because they feel the village is a safe and healthy environment in which to raise children. In addition, DCC Children's services have confirmed that such a quiet location may be suited to some children and that Ofsted will consider this when determining the appropriate location to home a child. On this basis, the site is considered to be capable of providing an adequate standard of amenity for its future residents.

Access/parking/highways issues

As set out earlier in the report, in terms of staff change over patterns, visitors to the home, vehicular movements to and from the home etc is not wholly quantifiable or predictable and will be dependent upon the needs to individual children in occupation at any one time.

The site is capable of accommodating two cars which could enter and leave the site in a forward direction and these spaces could be required to be provided and maintained by condition. These parking spaces could accommodate the electric car provided by the home and the managers car. This would result in the cars of carers and any visitors to the site to park on the road. It is proposed that there will be two carers working on site at any time with a 48hr shift pattern such that one of the carers changes over each day. This would potentially result in two carers parking on the road for extended periods of time with three carers parked during the handover period. There would also be additional on-street parking by any visitors.

This is not an ideal situation, particularly given the narrowness of the cul-de-sac and the proximity of the site to the entrance to the cul-de-sac which is on a 90 degree bend on Back Lane and the position of the bus stop. However, the existing dwelling could feasibly be occupied by two parents with three grown up children who all drive, resulting in the need for three cars to park on-street on a regular basis, not counting any visitors that dwelling may attract. For this reason, subject to a condition requiring no more than three children with two carers plus one manager based on site, the proposal is not considered to have a materially greater impact on street parking or highway safety than its occupation as a dwelling. On this basis the proposal is not considered to be harmful to highway safety and is considered to comply with the requirements of Policy SC3 of the Local Plan for Bolsover District and paragraph 115 of the NPPF in this respect.

Issues raised by residents

Most of the issues raised by residents are covered in the above assessment.

The issue of the solvency of the applicant and the ability of the company to manage the home have not been considered as these are matters covered by Ofsted.

The issue of covenants and mortgages on the property have not been considered as these are private matters for the parties concerned and are not material planning issues which can be taken into account.

The issue of safety for children and animals in respect of the proximity of the site to fields and unlit roads has not been taken into account as this is not considered to be any different whether the children living on site were in care or in a family environment.

The issue of the children being a target for "drug running" has not been taken into account this is not a material planning issue which could be taken into account and is a matter for Ofsted when choosing a location for homing a child and for the police.

The issue of carers not being able to attend during bad weather such as snow has not been considered. The home will offer 24hour care and as such care will always be on site. How this care will be managed in bad weather is a matter for the management of the home and Ofsted and is not a material planning issue which can be taken into account.

The issue of discrepancies in the application form and design and access statement mean that the application should be refused has not been considered as it is not possible to do that. The application was accompanied by the documents necessary to make it valid and as such the application has to be considered on its individual merits.

The issue of the appeals quoted in the design and access statement relating to applications for Lawful Development Certificates not planning applications is noted but this does not make the application invalid. These decisions have not been considered as part of the application process. The application has been considered on its individual merits and in accordance with the development plan.

CONCLUSION / PLANNING BALANCE

There is an identified need for the provision of care homes for children within the county. It is acknowledged that Palterton is not the most sustainable location for such a home, but DCC Children's Services have confirmed that a quiet location may be required for some children and it is a matter of Ofsted to home children to an appropriate location. The proposed development is therefore considered to help contribute towards this need.

There is potential for the proposal to result in noise and disturbance for adjacent residents but, subject to an appropriate noise management plan being put in place, this impact is not considered to be materially greater than could occur from the continued use of the site as a dwelling.

The potential for anti-social behaviour and the fear of crime as a result of the development is acknowledged but equally the home may provide much needed accommodation for children who would benefit and thrive within a close knit community, and it is a matter for Ofsted to ensure that children are homed in an appropriate location to suit their needs where they can learn to be part of a community.

The proposal will result in some on street parking but this is not considered to be significantly greater than if the property remains a dwelling and as such the proposal is not considered to be detrimental to highway safety.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development must be begun before the expiration of three years from the date of this permission.
2. Before the use hereby approved is first implemented, a noise management plan must be submitted to and approved in writing by the Local Planning Authority. The approved noise management plan must be implemented in full concurrent with the first occupation of the site and must continue to be implemented in accordance with the approved scheme thereafter.
3. Before the development hereby approved is first implemented, two parking spaces must be provided on site in accordance with the block plan no. 2CV-DRA-01 Rev A submitted to the Local Planning Authority via email on 23rd January 2024 and must be maintained available for parking thereafter.
4. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any

order revoking and re-enacting that order with or without modification) the premises must be used only as a children's care home for up to 3 children and for no other purpose (including any other use falling within Class C2 of the Order).

5. There must be no more than three members of staff on shift at the premises at any time unless otherwise agreed in writing by the Local Planning Authority

Notes

1. The three members of staff on shift must include the manager and carers on site.

Statement of Decision Process

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

Equalities Statement

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e., "the Public Sector Equality Duty").

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic.

Human Rights Statement

The specific Articles of the European Commission on Human Rights ('the ECHR') relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this 'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.